UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

GLEN R. HAGEN, Plaintiff, v. NCR CORPORATION; and DOES 1 through 100, Defendants.	Civil No. 07cv2205 DMS (CAB) **ORDER GRANTING PLAINTIFF'S EX PARTE MOTION TO CONTINUE EXPERT DESIGNATION AND RELATED DATES** **[Doc. No. 20.]**

On March 19, 2008, the Court issued an Order regulating discovery and other pretrial proceedings. [Doc. No. 16.] On June 30, 2008, Plaintiff notified the Court he would not be able to timely comply with the June 17, 2008 deadline for listing expert witnesses expected to be called at trial. On July 1, 2008, Plaintiff submitted an ex parte motion to extend the deadlines relating to expert discovery. [Doc. No. 20.] Defendants filed an opposition on July 11, 2008, [Doc. No. 22], and Plaintiff filed a reply on July 15, 2008, [Doc. No. 25].

It is the responsibility of counsel to timely adhere to court-imposed deadlines. Here, the Court does not find Plaintiff's reasons for failing to comply with the deadline to be either persuasive or compelling. Indeed, Plaintiff did not even notify opposing counsel that he would be unable to comply with the deadline until June 20, 2008, three days after the deadline had passed. [Decl. of T. Gill at ¶ 1.] Nevertheless, in light of the importance of experts in this case, the Court is reluctant to prejudice Mr. Hagen for the lack of diligence on the part of his counsel.

Furthermore, Defendants have failed to demonstrate they would be prejudiced by an extension. Defendants claim that at the deposition of Dr. Davidson on June 10, 2008, there was no mention of an expert witness and their trial strategy was planned accordingly. However, pursuant to the March 19, 2008 Order, Plaintiff was not required to designate experts until June 17, 2008. Thus, Plaintiff was not obligated to disclose experts at the June 10, 2008 deposition and any impact on Defendants' trial strategy was not the result of Plaintiff's failure to comply with the June 17, 2008 deadline. Accordingly, Plaintiff's request for an extension of expert discovery deadlines is **GRANTED**. It is **HEREBY ORDERED**:

1. On or before **August 8, 2008**, all parties shall exchange with all other parties a list of all expert witnesses expected to be called at trial. The list shall include the name, address, and phone number of the expert and a brief statement identifying the subject areas as to which the expert is expected to testify. The list shall also include the normal rates the expert charges for deposition and trial testimony. On or before **August 22, 2008**, any party may supplement its designation in response to any other party's designation so long as that party has not previously retained an expert to testify on that subject.

2. Each expert witness designated by a party shall prepare a written report to be provided to all other parties **no later than September 26, 2008**, containing the information required by Fed. R. Civ. P. 26(a)(2)(A) and (B).

Except as provided in the paragraph below any party that fails to make these disclosures shall not, absent substantial justification, be permitted to use evidence or testimony not disclosed at any hearing or at the time of trial. In addition, the Court may impose sanctions as permitted by Fed. R. Civ. P. 37(c).

3. Any party, through any expert designated, shall in accordance with Fed. R. Civ. P. 26(a)(2)(C) and Fed. R. Civ. P. 26(e), supplement any of its expert reports regarding evidence intended solely to contradict or rebut evidence on the same subject matter identified in an expert report submitted by another party. Any such supplemental reports are due on or before **October 10, 2008**.

4. All discovery, including expert discovery, shall be completed on or before **October 31, 2008**. *"Completed"* means that all discovery under Rules 30-36 of the Federal Rules of Civil Procedure must

be initiated a sufficient period of time in advance of the cut-off date, so *that it may be completed* by the cut-off date, taking into account the times for services, notice, and response as set forth in the Federal Rules of Civil Procedure. All discovery motions must be filed within 30 days of the service of an objection, answer or response which becomes the subject of dispute or the passage of a discovery due date without response or production, and only after counsel have met and conferred and have reached impasse with regard to the particular issue.

5. All other dates remain the same.

The parties are reminded that requests to extend discovery or other pretrial deadlines must be made before the deadline expires. Any future requests made after a deadline has passed shall be denied as untimely.

IT IS SO ORDERED.

DATED: July 16, 2008

CATHY ANN BENCIVENGO
United States Magistrate Judge